

DERRICK Lee Sledge, P-43766
CTF / CW-134L
P.O. Box 689
Soledad Calif. 93960

FILED
05 JUN 23 PM 1:26
CLAYTON W. VICKERS
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN PRO SE:

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DERRICK Lee Sledge
Plaintiff

V.

DAVID BALKIND, et al., R. Schnore
J.T. White, N.A. Ellis, M. Vela
S.R. Stinson, M. ARfa
And John Marshall

Defendants.

No. C 07-4622 CRB-
(PR)

Plaintiff Opposition
Response To Defen-
dants' Motion To
Dismiss; Memor-
andum of Points And
Authorities in Support

Plaintiff Respectfully ^{submit} this opposition-
response to defendants motion to dismiss
plaintiff Complaint. Because defendants has
failed "tremendously" to meet theirs burden
of demonstrating to this Court, "that it will appear

1 "beyond" doubt that this plaintiff can prove
 2 no set of facts in support of his claims, which
 3 would entitle him to relief.

4 Being how the issues of this case having
 5 an abundant of Exhibits presented as evidence
 6 in support of the named defendants unlawfulness
 7 plaintiff has still been diligently complied to
 8 Fed. R. Civ. P. 8(a)(2) - Crawford-El v
 9 Britton, 523 U.S. 574 (1998); at p.584-94 Id.

10 Plaintiff shouldn't become penalized of
 11 having his Civil Rights violation claims become
 12 dismissed, because defendants are still willing
 13 to participate in bad faith by asking this
 14 Court to order a dismissal, while they find ways
 15 of conceal their multitude of Prejudicials;
 16 Deliberately Indifference ect... misconduct.

17 The facts set forth by plaintiff statement
 18 of material facts along with the attached
 19 evidence produced in both Plaintiff Original
 20 and Amended Complaint demonstrate these
 21 defendants conduct was both illegal and unlaw-
 22 ful, under the color of Law / Authority.

23 A Civil Rights due process will surely
 24 prevail these defendants violation under
 25 clearly established Constitutional Laws.

26 This Court should deny defendants motion
 27 to dismiss; as well to count such motion for its
 28 Summary Judgement; And Grant Plaintiff demand

1 too Jury Trial ect., due process.

2 THIS OPPOSITION- RESPONSE, is based
3 upon this brief And its memorandum of points
4 And Authorities in support; the Original
5 And Amended Complaints, along with its
6 exhibits AS evidence on file for this case.

7 Plaintiff Also Respectfully Request that
8 this Court Reconsider his previous Motions
9 to Grant him Appointment of Counsel; Aswell
10 his previously Motion Request Leave to Amended
11 designated for this Court Review too Reinstate
12 All previous named defendants Constitutional
13 violation claims. . . .

14 15 MEMORANDUM OF POINTS AND AUTHORITIES

16 17 1. FACTS

18
19 On 12/13/2006, Plaintiff Derrick Lee
20 Sledge, once an inmate at CDCR/CMC-E; C-
21 Quad, under a mental health treatment
22 Program (CCCMS) - Coleman v. Schwarzenegger
23 No. CIV S-90-0520 LKK JFM P; See Coleman
24 v. Wilson 912 F. Supp. 1282, 1297-98 (E.D Cal. 1995)
25 (Citing, inter alia, Farmer v. Brennan 511 U.S.
26 825, 832 (1994) And Helling v McKinney, 509 U.S.
27 25, 31-32 (1993)). WAS with prejudice illegally
28 And unlawfully identified AS A participant

involving an "Officers Control Racial Riot," by present Officers only pre-addressing the initiation of the matter, while at the same time being prejudicially negligence to the escalation; As observers (See Original Complaint (OC)-Exhibit-Page 33).

Plaintiff then being rehoused in ASU/SHU pending an investigation, to be in isolation purposely having Retaliating hardship living Condition imposed such as: Denied completely of all required Personal Property being deprived for months from family, Courts Communication; No Out-door Exercise - (See C.C.R. 15 Article 6. Disciplinary Detention - Section 3331. Conditions of Detention - (c) Personal Items (h) Exercise. (j) Legal Material as well for not being able to continue my Religious Correspondence courses) Along with being deprived to fair law library / material. All to which was not Reasonable Related to legitimate penological interest - Civil Liberties fundamental Rights violations - Wolff v. McDonnell, 418 U.S. 539, 555-56, 94 S.Ct 2963 (1974). - Cruel Conditions of the "minimal civilized measure of life's necessities Rhodes v Chapman, 452 U.S. 337 (1981) at p. 347; Accord Wilson v Seiter, 501 U.S. 294, 111 S.Ct. 2321, 2324 (1991). An Eighth Amendment deprivations of basic needs serious enough to amount to the

1 "WANTON AND UNNECESSARY infliction of pain."
2 Rhodes v Chapman, 452 At 347; Accord Wilson v
3 Seiter III S. Ct. At 2324.

4 Such hardship conditions were purposely
5 imposed in this case to severely impaired
6 plaintiff emotionally / mentally to prevent him
7 from successfully Advocating his actual
8 innocence etc... discovery that initially demon-
9 strated its Officer defendant D. Balkind honest
10 mistake; However has now enhanced in illegal
11 And unlawfulness Activities !!.

12 Then, throughout plaintiff entire false
13 imprisonment-ASU/SHU Episode due-process
14 proceeding he were genuinely not given A
15 fair And Just opportunity by way of CDC-602
16 Appeals pursuit to demonstrate (Prove) his
17 complete innocence - Because it Processing is
18 being operationalized solely by co-workers
19 friends And even lovers of that same mis-
20 conducted Officer. These Officials assigned
21 as fact-finders true desire is to pass
22 judgement that contradict An inmate Allegations
23 Complaints when its Against Another Staff (This
24 Court must please Recognize such Activity is
25 Realization with prior incidence AS CORCORAN
26 Shooting of prisoners by guards. Pelican Bay prison
27 staff regularly use excessive force And most
28 presently CDCR manipulations with its over

1 Crowding situation to comply with pending court
 2 orders under Coleman Plata And Armstrong
 3 Violations - To comprehend, had inmate been
 4 Receiving impartial CDC-602 due process these issue
 5 would of be Readdressed much earlier, such as
 6 in this case.

7 So by plaintiff being firmly held of proving
 8 his innocence through others Officers incident
 9 Report Against such Bias Sovereignty establish-
 10 ment (CDCR), has created both A procedural
 11 And substantive due process violation - see
 12 DUNCAN V LOUISIANA, 391 U.S. 145, 147-48,
 13 88 S. Ct. 1444 (1968); DUNCAN V Poythress, 657-
 14 F. 2d 691, 704 (5th Cir. 1981), cert dismissed as
 15 improvidently granted, 459 U.S. 1012 (1982)

16 Having no other solution available through
 17 CDCR/CMC-E Appeal 602 process, but having the
 18 named defendants unlawfulness conduct "ignored"

19 Plaintiff on file Exhibits consisting of
 20 multitude of CDCR/CMC-E 602's (over 300 pages)
 21 convincingly demonstrate, "At no time during
 22 these 602-Reviews were plaintiff given AN
 23 impartial with fundamental fairness constitu-
 24 tionally mandate due-process protection. (see
 25 Young v Selsky, _____ F.3d _____ (2d Cir. 1994)-
 26 officer reviewing appeals was not immune from
 27 damages liability).

28 It was not one of plaintiff allegations

1 NEVER Redressed out-side the Fabricated
 2 initial incident Report produced by defendant
 3 D. Balkind - Morrison v LeFevre 592 F. Supp.
 4 1052, 1073 (S.D. N.Y. 1984) - Due Process conta-
 5 minated by the introduction through state action
 6 of false inculpatory evidence.

7 Other Courts have also rejected the view
 8 that prison personnel ARE privileged to make up
 9 disciplinary charges - (see Cale v Johnson, 861
 10 F.2d 943, 949-50 (6th Cir. 1988). However in
 11 Plaintiff case he became subjected to false
 12 charges (after the conceal fact-finding) and severely
 13 denied an impartial full-hearing - (see Freeman v.
 14 Rideout, 808 F.2d 949 (2d Cir. 1986) cert. denied
 15 485 U.S. 982 (1988) at p. 952.

16 To which now this Court must with
 17 Fairness Review the initial Eighth Amendment
 18 violations - when defendant Sgt. Schware negligent
 19 to not called the Yard-Down, A practical decision
 20 And Policy concealment convinced defendant D.
 21 Balkind to continue supporting his filed Fabricated
 22 Report (Winston v Coughlin 789 F. Supp 118, 120-21
 23 (W.D. N.Y. 1992).

24 25 2. OBJECTION TO DEFENDANTS 26 STATEMENT OF ISSUES...

27 28 A. Plaintiff's Due Process Violations Claims

1 Must "Not" Be Dismissed For Failing To
2 State A Claim Under Which Relief May Be
3 GRANTED. . .

4 Pursuit to Fed. Rules Civ. Proc. Rules
5 8(a). 28 U.S.C.A. Requiring that a complaint
6 contain a short and plain statement of claims
7 being asserted; And does not require a civil
8 Rights plaintiff to plead his evidence or
9 specific factual details not ascertainable in
10 Advance of discovery.

11
12 B. Plaintiff's Suit is NOT BARRED By
13 The Prior Invalidation Rule. . .

14 Plaintiff has never stipulated in
15 neither his original Complaint nor most re-
16 cently his Amended Complaint statements
17 challenging the action directly affecting the
18 duration of the unlawful sentence (Punishment)

19 However plaintiff in general do
20 challenge the cruel and unusual punishment
21 Relation imposition of significant hardship
22 living condition in relation to the ordinary
23 incident of normal prison living caused by
24 plaintiff being subject to its due process violation
25 (See SANDIN V CONNER (1995) 515 U.S. 472
26 483; AND WILKINSON V DOTSON (2005) 544 U.S.
27 74. Under United State Code Title 42 Section
28 1983.

C. Defendants Are "Not" Entitled To Qualified Immunity. . . .

Plaintiff has set forth with particularity evidence by way of others CDCR/CMC-E Officers Incident Report; Upon which he has based Allegations of improper And unlawful motives from all these defendants. Which qualified immunity protect only Action taken pursuant to discretionary functions (see *Groten v Calif.* 251 F. 3d 844)

In this case these named defendants function were Acts of malice And sadism under prejudicial deliberate indifference in their individual capacity. Unlawful Action to violated clearly Established Statutory And Constitutional Rights which Any Reasonable person would have honestly known. To which disputed their Resolution And determination of credibility are manifestly of a Jury-determination (See *MARTINEZ v City of Oxnard* 270 F. 3d 852. Aswell the Supreme Court has Rejected this Argument. *United States v Testan* 424 U.S 392, 399, 96 S Ct. 948, (1976). *Smothers v Gibson* 778 F. 2d 470, 473 (8th Cir. 1985).

D. Defendants Claims That Plaintiff's

1 Complaints Fails To Plead A Claim For
 2 Punitive Damages is Misleading And should
 3 be interpreted that defendants admit to their
 4 Misconduct unlawfulness ect.,

5 Plaintiff believed In federal Court
 6 the Rules do not Require A plaintiff to State
 7 A definite dollar Amount At All (See CNW Corp.
 8 V Japonica Partners L.P 776 F. Supp. 864, 869
 9 (D. Del. 1996). Also see R. S. E. Inc. V Pennsy
 10 Supply, Inc 77 F.R.D 702, 703 (M.D. Pa 1977)
 11 Federal Rules Require only A statement of the
 12 type of Relief Requested.

13 Also plaintiff ARE in diligence hopes
 14 to obtain AN Attorney (see FARRAR V Hobby
 15 506 U.S. — 113 S. Ct. 566, 574-75 (1992).

17 3-THROUGH-8 INCORPORATED DUE PROCESS 18 VIOLATIONS BY DEFENDANTS

19 Plaintiff was completely denied his
 20 due process rights under Wolff v McDonnell
 21 (1974) 418 U.S., Penal Code section 2932
 22 subdivision (a)(3) And Title 15, Cal Admin.
 23 Code section 3315 (e) to have witnesses
 24 present at his hearing. By Defendant S. R
 25 Stinson. Also unlawfully /illegally defendant
 26 Stinson lied falsified A disposition by Fabricating
 27 ^{Plaintiff} he waived this Rights Away when he did not,
 28 ^{Plaintiff}

Aswell this same defendant initiated the Hearing with malice AND prejudice. He refused to let ~~Plaintiff~~ ^{Plaintiff} be present to participate AND refused to let ~~me~~ ^{Plaintiff} present true evidence in support of ~~my~~ ^{he} actual innocence. Aswell of letting ~~me~~ ^{him} question ~~my~~ ^{his} Accuser (Defendant David Balkind).

4.

CDCR/CMC-E Prison Officials denied Plaintiff to impartial AND Adequate AND just Investigative Employee. To Violate Plaintiff Rights to A FAIR hearing AS protected by Title 15, Cal. Admin. Code section (d). Defendant N. A. Ellis Assigned AS Plaintiff (IE) whom personal & unlawfully with malice AND sadistic intention discarded Plaintiff Written Declaration to puresuit for his innocent that contain witnesses question to ASK ect... All of which IE Ellis refused to do to Allow Defendant S. R. Stinson to Fabricate plaintiff entire Final Hearing.

The United States Supreme Court in Wolff v. McDonnell Supra at p. 570 established that prisoners ARE entitled to Counsel-Substitute when a particularized need for such can be demonstrated.

Section 3315 of the code reflects a Recognition that A prisoner who is placed in

1 Segregation pending a disciplinary hearing is
 2 seriously disabled in his ability to collect
 3 evidence on his behalf.

4 Therefore, subsection (d) of that
 5 section provides for the assignment of an
 6 investigative employee ect... where "the inmate's
 7 housing status makes it unlikely that he or she
 8 can collect and present the evidence necessary
 9 for an adequate comprehension of the case...."
 10 Which Plaintiff was denied of in its entirety.
 11 (See *Clutchette v Enomoto* (N.D. Cal. 1979)
 12 471 F. Supp. 1113, 1117).

13 The structures thus put upon an accused
 14 with no independent means to gather evidence
 15 in his behalf due to his "lockup" status are
 16 hardly conducive to the kind of "fair hearing"
 17 envisioned in *Wolff v McDonnell*, supra. (Id).

18 5.

19 Defendant Schnore, with malice and
 20 prejudice deliberately indifference participated
 21 with sadistical negligence toward Plaintiff being
 22 completely denied fundamental fairness due process
 23 in connection with the Plaintiff Disciplinary Proceeding

24 First, defendant Schnore the head officials
 25 was extremely negligence - A person with reckless
 26 action for not immediately calling the yard down
 27 upon learning an inmate became assaulted, whom
 28

1 Attempted to try and cover it up; moreover because
 2 the injury caused the yard-time activity to become
 3 exposure to great amount of "contaminating blood"

4 Second, defendant was an assigned yard
 5 program Sergeant with years of experience under
 6 such matter to have known he failed his sole
 7 duty to protect prisoners and his staff from
 8 violence at the hands of other inmates (See
 9 Helling v McKinney 509 U.S. 25 (1993) and
 10 Wilson v Seiter 501 U.S. 294 (1991)).

11 Third, due to Sgt. Schwore Actual Knowledge
 12 Standard of Clearly Establish Law - Farmer v
 13 Brennan 511 U.S. 825 (1994) - Prison Officials.
 14 duty under the Eighth Amendment to ensure
 15 reasonable safety - in turn used poor judgement
 16 too coerce his following officers to fabricate
 17 (alter) the incident timing to his. In an attempt
 18 to conceal the ample time in between to had called
 19 the Yard-Down prior to the fighting.

20 All to which unlawfully permitted
 21 defendant David Balkind to file false charge
 22 against Plaintiff that automatically forced any
 23 Plaintiff to become denied ^{impairing} ~~more~~ fundamental fairness
 24 to Just due Process Protection Rights.

25 Evidence in support of the above actual
 26 facts consist with all other Primary and Responders
 27 incident Officers incident Report - Convincingly
 28 demonstrating that they were ^{much more} present observers

Policy correctly Responders whom used Appropriately force (Pepper Spray) to stop further assault and too secure and correctly identify. Contrarily to defendant-D. Balkind false Allegation whom was the farthest away with over 60 inmates in his pathway and vision to be the very last to arrived to never Policy Standardize to secure and identify.

Plaintiff was no where near this fighting zone with two ten-foot high/20 feet long fences preventing an escape pathway. As Stg. Schnore Stg. Kettner and Officer Carlson also approaching before defendant-D. Balkind. To which Plaintiff was label behind theirs secure position. Therefore the timing Fabrication initiated by defendant Schnore established Plaintiff to be denied fair/equal impartial due process Rights.

Futhermore by defendant Schnore supervisor of this incident to label it ~~as~~ falsely as an alleged participation Racial Riot and not substantially of its truthfulness that the black inmates were only acting in self-defense due to staff negligence to had intervene much earlier - convincingly show defendant Schnore prejudice /discrimination against Blacks inmates as Plaintiff, By Policy Standardization evidence wasn't product that said Plaintiff was ⁱⁿ any way affiliated to the Black inmate that initiated these individual fighting or do CDCR Record support that Plaintiff is a Crip member

AS with this initiator; Aswell establishment
 informations was developed that state the
 initiator acted alone because of a previous
 altercation where staff was also negligence to
 follow-up on another standardize policy violation

To which Schmore supervising prejudice
 discriminating false incident labelling significantly
 contributed to plaintiff also being denied a fair
 impartial due process entitlement !!

For additional support review plaintiff
 Amended Complaint on file.

6.

Defendant M. Vela assigned as CMC-E
 Appeal Coordinator with prejudice and a
 conflict of interest - by intentionally vague
 schematic information not being stipulate that
 identify two ten foot fences to contradict defen-
 dant D. Balkind false allegation and defendant
 S.R Stinson some evidence that was based on this
 vague information. Prejudicially impaired plaintiff
 to receive a fair due-process review

Moreover for not coming forth to clarify the
 truth, this defendant enhance the unlawful prosecution
 by not time processing the CDC-602 by personally
 review the issues and refusing to process the 602

In the record by way of Plaintiff
 Amended Complaint show submitted CDC-602 Post -

Deprivation Violation by way of CDC-602 Review that Mrs. Vela prejudice with deliberately indifference failed to correct and process in support of her liability - See King v Cuyler, 541 F Supp. 1230, 1233-34 (E.D. Pa 1982) And Sheppard V. LeFevre 116 A.D.2d 867, 498 N.Y.S.2d 190 (N.Y. App. Div. 1986).

Moreso defendant M. Vela Refuse to process plaintiff IE violation CDC-602 upon becoming fully aware that the Policy contain a huge deficiency by forcing ASU/SHU to attach documents either that they haven't receive yet; in the process or locating to make copies to attach to two differently CDC-602 Review, in which the original document would already be on file for review by the 602-Reviewer. which in this case conceal all the violation from becoming address until long after being punished

This permitted other hearing to become violated and so on - Due Process Require a hearing before punishment is imposed (See Walker v Bates 23 F.3d 652 657-59 (2d Cir. 1994) petition for cert filed (July 25, 1994); see also Chavis v Rowe, 643 F.2d 1281, 1287-88 (7th Cir.), cert. denied, 454 U.S. 907 (1981). And that hearing (CDC-602 Appeal due process) must meet due process standards Gilbert v. Frazier 931 F.2d 1581, 1582 (7th Cir. 1991). To which Defendant M. Vela Violated Plaintiff due Process Rights in pursuit to establish fair due process within

that present Hearing which also resulted in a due process Hearing violation.

For Addition Support into defendant M. Vela due process violation against plaintiff please Reviewed on file Plaintiff Amended Complaint on file.

7.

Defendant - ARFA being assigned AS CDCR / CMC-E Institution Classification Committee (ICC) Chairperson - Policy designated to Review all pre/post disciplinary Procedure before confirming Judgement Recommendation and to redress the alleged evidence in support of the finding of Guilt.

Contrarily defendant ARFA deprived ^{plaintiff} to this fair/justice, due process right by not having this ICC Hearing Tape Recorded too permit plaintiff his due process rights protection to stipulate on record to the multitude of unlawfulness, due process rights violations that Plaintiff now Complaint to this Just Court too redress.

Contradictively defendant Affirmed the unlawful and due process violations of its entirety too enhance the unlawfulness in retaliation by forcing that plaintiff be adverse transferred to hardship living extr. CTF Facility. For additional defendant-ARFA due process violation See Amended Complaint.

8.

Defendant John Marshall CDCR/CMC-E Warden. Contribute to the multitude of plaintiff Actual stated due process violations by using his Authority to conceal the named defendant unlawful, prejudice and deliberately indifference misconduct ect... By having a partial staff misconduct investigation conduct by co-work friendship official that were prejudice and didn't honestly review or redress any of plaintiff claims of violations.

Plaintiff diligently sought out-side assistance as he also sought administration help with no success. Plaintiff believe out-side overseer office of Internal Affairs finally after all the violation occurred contact CMC-E official defendant John Marshall whom with deliberately indifference did ^{not} personal get involved so other staff could conceal all plaintiff claims.

The Fourteenth Amendment Due Process Clause of the United States Constitution guarantees that people shall not be deprived of liberty without due process of Law

Initially CDC Rules were held to place limits on the discretion of prison officials and require that California prisoners be provided with procedural rights protecting against unjust placement

OR Retention in Segregation (See Toussaint
v McCarthy (9th Cir. 1986) 801 F.2d 1080, 1098
Cert. denied, 107 S. Ct. 2462 (1987).

Then in Sandin v Conner (1995) 515
U.S. 472 - where a State had specific rules for
placing prisoners in segregation, these rules did
not invoke due process protections unless the
Restraint at issue imposed atypical and significant
hardship in relation to ordinary prison life. "That
has exist in this presented case now."

CDC has for years had difficulty in
consistently processing prisoners' appeals within
the time limits even when there have not been
circumstances excusing delay (See In Re Day
(MARIN Superior Court No. 126836) Interlocutory
Order filed March 9, 1987) which has gotten
even worse (Refer. Prison Law Office 2000
Study).

Now CDCR / CMCE Appeal Office has
enhanced it manipulation deliberately Indifference
by forcing its inmates to attach already on file
copies CDC 128g chrono's I E - Reports and final
US-disposition Copies that take months for the
inmate to obtain and then when a plaintiff finally
obtain his copy the next hearing has already took
place in due process violation and as in this case
having the Appeal Coordinator deprive ^{plaintiff} ~~you~~ immediately
602- Review to attach ^{A copy of} that documentation already on

1 file for official review And then when plaintiff
2 comply to that order to resubmitt the CDC-602
3 it then become reject as being to late. That
4 deprived plaintiff crucial IF-Violation From
5 becoming due process reviewed...

6 7 CONCLUSION

8
9 For the foregoing reasons and for
10 good cause shown,

11 1. Grant Plaintiff Motion For
12 default Against Defendant DAVID Balkind
13 for failure to comply to this Court order.

14 2. Grant Plaintiff Motion For
15 this Court to Appoint him legal Representation
16 in the interest of Justice.

17 3. Grant Plaintiff Motion To leave
18 To Amend; For Grounds to Reinstate All
19 named defendants in Plaintiff Original
20 Complaint; His Amended Complaint, Aswell named
21 in this Responded Brief by plaintiff.

22 4. Denied Defendants Motion To Dismiss
23 in its entirety. And in Bad faith by defendants
24 denied defendants request to now submit A motion
25 For Summary judgment.

26 5. This Court should GRANT partial
27 Summary judgment on liability to the plaintiff on
28 his due process claims. The Amount of damages

1 due to the plaintiff must be determined at trial.
2 Patterson v Coughlin, 905 F.2d 564, 570
3 (2d Cir. 1990).

4
5 Dated: June 18, 2008.

6
7 Respectfully Submitted.

8
9 Derrick Lee Sledge
10 Derrick Lee Sledge
11 IN PRO SE.
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**PROOF OF SERVICE BY MAIL
BY PERSON IN STATE CUSTODY**
(C.C.P. §§ 1013(A), 2015,5)

I, DERRICK Lee Sledge, declare:

I am over 18 years of age and I am party to this action. I am a resident of CORRECTIONAL TRAINING FACILITY prison, in the County of Monterrey, State of California. My prison address is:

DERRICK L. Sledge, CDCR #: P-43766
CORRECTIONAL TRAINING FACILITY
P.O. BOX 689, CELL #: CW-134L
SOLEDAD, CA 93960-0689.

On June 19, 2008, I served the attached:

Plaintiff Opposition Response to Defendants Motion To Dismiss; Memorandum of Points And Authorities in Support.

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

Office of the Clerk
U.S. District Court
North District of Calif.
450 Golden Gate Ave
SAN FRANCISCO CA. 94102
3x Copies

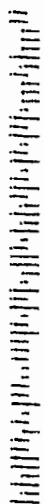
Dept. of Justice Office
of the Attorney General
455 Golden Gate Ave
Suite 11000
SAN FRANCISCO Ca 94102
ATTN: Edmund G BROWN JR.
And Is/Kyle A Lewis
for defendants
1x Copies

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 19, 2008.

Derrick L Sledge
DERRICK L Sledge
Declarant

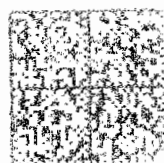
Derrick



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